

Exhibit 1



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NETLIST, INC., (CAUSE NO. 2:21-CV-463-JRG
)
Plaintiff, ()
vs. ()
SAMSUNG ELECTRONICS CO., LTD., ()
et al., () MARSHALL, TEXAS
(MAY 30, 2023
Defendants.) 8:30 A.M.

BENCH TRIAL ON THE MERITS

BEFORE THE HONORABLE RODNEY GILSTRAP
UNITED STATES CHIEF DISTRICT JUDGE

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1 THE COURT: Be seated, please.

2 All right. This is the time set for a bench trial
3 before the Court on the equitable defenses raised in the
4 Netlist versus Samsung Electronics matter. This is Civil Case
5 No. 2:21-CV-463.

6 As the parties will recall, the Court conducted a jury
7 trial in April of this year. At the conclusion of that trial
8 the jury returned a verdict, and post the return of the jury's
9 verdict, the Court is now prepared to take up in this bench
10 trial those equitable issues that were raised as a part of
11 this case. The Court's designated four hours of trial time
12 with two hours allocated to each side.

13 Let me ask for announcements from both sides and then
14 we'll proceed with the case in chief from Defendant Samsung.

15 What's the announcement from Plaintiff Netlist?

16 MS. TRUELOVE: Good morning, Your Honor. Jennifer
17 Truelove here for Plaintiff Netlist. With me today I have
18 Mr. Jason Sheasby, Steven Payne--they will be presenting today
19 on behalf of Plaintiff--and also at counsel table is our
20 client representative Mr. Scott Milton. And we're ready to
21 proceed, Your Honor.

22 THE COURT: All right. Thank you.

23 What's the announcement for Samsung, the Samsung
24 entities?

25 MS. DEGNAN: Good morning, Your Honor. Lauren

1 Q. Okay. Does that include DDR4 and 5 and HBM?

2 A. Yes, it does.

3 Q. So tell the Judge a little bit about your work at Intel
4 and then with JEDEC.

5 A. Okay. As I said, I participated from 2001 to 2018 when I
6 retired. My job was to propose features for DRAM standards,
7 review other features that people had proposed, and voted on
8 those proposals as a committee member and as a task group
9 member.

10 Q. About how often does JEDEC meet?

11 A. So the committees meet once a quarter and then the task
12 groups where the real technical work gets detailed, technical
13 work gets done, meets once a week. And you can have multiple
14 task groups going on for a given standard, so over 17 years
15 maybe 500-plus meetings for JEDEC.

16 Q. And were you actually involved in the various standards
17 that JEDEC promulgated during your years?

18 A. Yes. From -- as I said, from DDR1, DDR2, DDR3, DDR4,
19 DDR5, HBM, and then post-retirement I did work on DDR6.

20 Q. Did you receive any recognition for your work at JEDEC?

21 A. In 2016 I received the chairman award for my work on DRAM
22 memory.

23 MR. CORDELL: Your Honor, we proffer Mr. Milton as
24 an expert in the JEDEC standard-setting organization and
25 rules.

1 THE COURT: Is there objection?

2 MR. SHEASBY: No objection, Your Honor.

3 THE COURT: Without objection, the Court will
4 recognize Mr. Halbert as an expert in the designated fields.
5 Please continue.

6 MR. CORDELL: Thank you, Your Honor.

7 Q. (BY MR. CORDELL) So let's start with standards-based
8 equitable estoppel.

9 On slide 8 you have a couple of manuals. Can you tell
10 His Honor what these are?

11 A. This is JM21. It's kind of the -- call it the operating
12 Bible for JEDEC. It lists all the policies, procedures, how
13 validating voting works, patent policy, et cetera.

14 Q. And you have JM21S as DTX 02. And then you have JM21T as
15 DTX 08. Is there a material difference between these two?

16 A. JEDEC periodically issues revisions. In this case they
17 are just editorial revisions.

18 Q. And what does the manual of organization and procedure at
19 JEDEC provide?

20 A. It provides, as I said, kind of a how to work in JEDEC;
21 as I said, how to do ballots, how balloting is done. Also in
22 one section it lists out the patent policy and patent
23 procedure for JEDEC.

24 Q. So at slide 9 you cite DTX 8 at page 32, and this is
25 general provisions. Can you explain the significance of this

1 A. The leading contributors for the DRAM companies, SK
2 hynix, Micron, Samsung, and then Intel was also a leading
3 contributor.

4 Q. And as part of your work in this case, have you done an
5 analysis of the contributions that were made to the standard?

6 A. Yes, I have.

7 Q. Can you tell His Honor what a contribution is?

8 A. A contribution in this case is a technical presentation
9 either done at the committee meetings that happen quarterly or
10 in any of the task groups.

11 Q. And are those sometimes called proposals?

12 A. Yes, proposals; they can be technical comments; whatever.

13 Q. And what did you do to analyze the contributions in this
14 case?

15 A. So when a person makes a presentation at a JEDEC
16 committee or a JEDEC task group, they have to upload their
17 presentation first to the JEDEC server so it's available to
18 everyone. And so all of these presentations are available,
19 and you can filter the list of presentations that includes
20 ballots and other items for just presentations. And that's
21 what I did. And I searched for, in this case, DDR4 DIMM
22 presentations and DDR5 DIMM presentations done by Samsung
23 and Netlist.

24 Q. And what was the result of your analysis?

25 A. So over the time that those two DIMM standards were

1 created, there are roughly a thousand presentations made.

2 Of that, Samsung made 220 and Netlist made none.

3 Q. And did you look at some of the other standards?

4 A. Yes. I also looked at the DDR4 data buffer standard and
5 the DDR4 RCD. About 540 presentations were made in that
6 committee and task group. Of that, Samsung made 14 and
7 Netlist made none.

8 Q. And then what about DDR5 PMIC?

9 A. DDR5 PMIC, about 410 presentations. Of that, Samsung
10 made 89 and Netlist made none.

11 Q. And what was the total score?

12 A. A total score, around 2,000 presentations for all of
13 those different standards. Of that, Samsung made about 243
14 presentations and Netlist made none.

15 Q. Sort of like a Baylor/UT football score?

16 A. Yeah. I think more Oregon Ducks and somebody else.

17 Q. Thank you.

18 MR. CORDELL: Pass the witness, Your Honor.

19 THE COURT: Cross examination?

20 MR. SHEASBY: Yes, Your Honor.

21 CROSS EXAMINATION

22 BY MR. SHEASBY:

23 Q. Good morning, Mr. Halbert. It's nice to see you again.

24 A. Good to see you.

25 Q. Mr. Halbert there's a set of exhibits next to you in a

1 MR. McKEON: Sorry about that, Your Honor. I
2 thought we --

3 (Pause in proceedings.)

4 THE COURT: You can use the counsel table. You
5 don't need to get down on the floor, Mr. Sheasby.

6 MR. SHEASBY: Thank you, Your Honor.

7 DTX 14 is fine, Your Honor.

8 THE COURT: All right. So both of you have heard
9 the offering from the other. I gather there are no objections
10 to either's rendition into the record.

11 MR. McKEON: No objection, Your Honor.

12 MR. SHEASBY: No objections, Your Honor.

13 THE COURT: All right. Thank you, counsel. You're
14 excused.

15 As I stated earlier, the matters raised in the bench
16 trial are under submission.

17 MR. SHEASBY: Thank you, Your Honor.

18 MR. McKEON: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (The Proceedings were concluded at 2:30 p.m.)
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